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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,380	12/05/2000	Ken Liljegren	5432/01004	7399

7590 06/19/2002
DARBY & DARBY P.C.
805 Third Avenue
New York, NY 10022

EXAMINER

AULAKH, CHARANJIT

ART UNIT	PAPER NUMBER
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1625

DATE MAILED: 06/19/2002

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/730,380

Applicant(s)
Liljegren, K. et al.

Examiner
CHARANJIT AULAKH

Art Unit
1625



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 19, 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-10, 12, 13, 16-33, 36-59, and 61 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-10, 12, 13, 16-33, 36-59, and 61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 1 6) ☐ Other:

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DETAILED ACTION

1. According to paper no. 11 filed on April 19, 2002, the applicants have filed RCE of application S.No. 09/730,380.
2. According to paper no. 12 filed on April 19, 2002, the applicants have canceled claims 2, 3, 11, 14, 15, 34, 35 and 60 and furthermore, have amended claims 1, 4-10, 12, 13, 20, 22, 23, 30, 33, 36-43, 55 and 56.
3. Claims 1, 4-10, 12, 13, 16-33, 36-59 and 61 are now pending in the application.

Response to Arguments

4. Applicant's arguments filed on April 19, 2002 (paper no. 12) have been fully considered but they are not persuasive regarding prior art and obviousness rejections. The examiner agrees with the applicants arguments that the cited prior art references (patents 590 and 884) do not mention the median particle size of the crystals and furthermore, the applicants have submitted a declaration (paper no. 13) by Hans Peterson showing that the particle size of crystals of citalopram was much smaller in the patents 590 and 884 (6-14 μm) as compared to at least 40 μm in the instant application. However, the applicants did not address the unexpected result (beneficial effect) of their larger particle size crystals as compared to the smaller particle size crystals of the prior art patents. The applicants need to submit a declaration showing unexpected beneficial effects of their tablets with larger particle size crystals as compared to the tablets of smaller particle size crystals following their oral administration.

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Conclusion

5. The prior art rejections under 35 U.S.C. 102(b) and obviousness rejections under 35 U.S.C. 103(a) are maintained for the reasons of record.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chana Aulakh whose telephone number is (703) 305-4482. The examiner can normally be reached on "Monday-Thursday" from 7:30 A.M. to 6:00 P.M.

If the attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Alan Rotman, can be reached on (703) 308-4698. The fax number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group's receptionist whose telephone number is (703) 308-1235.


CHARANJIT S. AULAKH

PRIMARY EXAMINER